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87-1802 (1)

No.

Supreme Court, U.S.
FILED
MAY 3 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

JULIE VETTER

Appellant,

v.

CITY OF BISMARCK

Appellee,

ON APPEAL FROM THE SUPREME COURT OF NORTH DAKOTA

JURISDICTIONAL STATEMENT

Dated: March 22, 1988

JULIE VETTER
In Propria Persona
917 Constitution Drive
Bismarck, ND 58501
(701) 258-3987

QUESTION PRESENTED

Does Bismarck City Ordinance 3-03-01 which requires licensure of dogs within the city violate Article 1, Section 10, Clause 1 of the United States Constitution as a grant of a Title of Nobility.

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OPINIONS BELOW

The ruling of the Burleigh County Court on the motion to dismiss was denied. See Joint Appendix at page 11.

The opinion of the North Dakota Supreme Court, affirmed the County Court. See Joint Appendix at page 41. The order denying appellant's Petition for Rehearing was entered December 29, 1987. See Joint Appendix at page 54.

STATEMENT OF JURISDICTION

The appeal to this Court is taken pursuant to 28 U.S.C. 1257(2), from the Supreme Court of North Dakota, judgement entered on November 19, 1987, petition for rehearing denied December 29, 1987. Notice of appeal to this Court was made January 5, 1988, and filed with the Supreme Court of North Dakota.

CONSTITUTIONAL AND STATUTORY PROVISIONS

"No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque or Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility."
United States Constitution, Article I, Section 10, Clause 1

"3-03-01. -License required. It is unlawful for any person within the city to keep, maintain or have in custody or under control any dog over the age of six months which is not licensed and inoculated against rabies."
Bismarck City Ordinance 3-03-01

STATEMENT OF THE CASE

Vetter was summoned to municipal court to answer a complaint for committing the offense of "no dog

license," for keeping a house dog, a little terrier poodle. The complaint is dated March 23, 1987. See the Joint Appendix at page 1. On April 6, 1987 the City moved to amend the complaint. See the Joint Appendix at page 2. Trial was had and judgement was rendered on May 7, 1987, against Vetter. See the Joint Appendix at page 3.

Vetter had trial anew in the County Court. On July 14, 1987, Vetter submitted a motion to dismiss. See the Joint Appendix at page 5. On July 15, 1987, the City of Bismarck filed a brief in resistance to the motion to dismiss. See the Joint Appendix at page 8. On July 29, 1987, trial was had and an order was entered denying the motion to dismiss. See the Joint Appendix at page 11. Order and Judgement was entered against Vetter on August 3, 1987, that

Vetter obtain a dog license, pay a $25 fine and $50 court cost. See Joint Appendix at page 12.

Vetter appealed to the North Dakota Supreme Court. On August 25, 1987, Vetter and the City stipulated on appeal that Vetter is the owner of the dog, that a license was not issued, and that the sole issue on appeal is that the ordinance is invalid. See the Joint Appendix at page 14. On September 11, 1987, Vetter filed her appellant's brief. See the Joint Appendix at page 17. On October 9, 1987, the City filed their brief. Without oral argument, the Supreme Court of North Dakota, on November 19, 1987, entered judgement against Vetter affirming the County Court. See the Joint Appendix at page 41. On December 2, 1987, Vetter petitioned for rehearing. See the Joint

Appendix at page 43. On December 29, 1987, the Supreme Court denied the petition for rehearing. See the Joint Appendix at page 54.

On January 5, 1988, Vetter filed a notice of appeal to this court from the North Dakota Supreme Court. See the Joint Appendix at page 55. Vetter appeals from the judgement of the trial court's and the North Dakota Supreme Court's judgement upholding the validity of the city ordinance.

THE QUESTION PRESENTED IS SUBSTANTIAL

This case presents an issue of rights under a Republican form of Government, and how those rights are to be protected.

Vetter has an inalienable right to keep a dog, and the City of Bismarck

cannot take away such a right and grant it back as a privilege, because the city would be granting a title of nobility which is forbidden in Article 1, Section 10, Clause I of the Constitution for the United States of America; Horst v. Moses, 48 Ala. 129, 142 (Ala. 1872); Societe Vinicole De Champagne v. Mumm C. Imp. Co. 13 F. Supp. 575, 579 (1935), upheld and reiterated in 143 F.2d 240, 241 (1944); "The Federalist Papers" by Hamilton, Madison, and Jay, numbers 39, 44, 84, and 85. A one word definition for a grant of a title of nobility is "privilege" or "monopoly".

Bismarck City Ordinance 3-03-01 takes away the right to keep a dog or to maintain or have in custody an inoculated dog and grants such a right back as a privilege subject to one having a license and having the dog inoculated. This

ordinance has nothing to do with whether a dog is publicly running loose, etc.

The State of North Dakota is forbidden to grant any title of nobility. United States Constitution, Article I, Section 10, Clause 1; Downes v. Bidwell, 182 U.S. 244, 277 (1901); Gains v. Buford, 31 Ky. (1 Dana) 481, 500 (Ky. 1833); Legal Tender Case, 110 U.S. 421, 447 (1884). And what the State can not do directly and can not authorize, it can not do indirectly or authorize through any of its agents such as the City of Bismarck. Downes v. Bidwell, 182 U.S. 244, 291-292, 359-360, 383 (1901); Marbury v. Madison, 5 U.S. (1 Cranch) 137, 176-177 (1803).

CONCLUSION

For the reasons set forth herein, this Court should note probable jurisdiction of this appeal so that the substantial question raised can be given plenary consideration.

Dated this 29th day of April, 1988.

Respectfully submitted,

Julie Vetter

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PROOF OF SERVICE

I do hereby declare that three copies of the foregoing document was hand delivered to the office of:

HUGH P. SEAWORTH
City Attorney
221 North 5th Street
Bismarck, N.D. 58501

Dated this 29th day of April, 1988.

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